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SOME POINTS IN DEFENSE OF PURISM

Perhaps in every ideological movement—in each school of thought that generates supporters who work to implement some of the principles derived from that school's framework of analysis—there are *purists* and *not-so-purists*. Among those who support the free society there is ample evidence of the belief that some are in one, others in the other camp. I am concerned only with a couple of matters in this connection.

One is the distinction between those who maintain that one and only one line of reasoning gives the conclusive support for the claim that a free society is best for human beings, and those who think that unless someone employs that argument, he or she *cannot* be a sincere, honest, productive advocate of human liberty. I belong in the first category. I admit that what the best argument for freedom (or a link at some particular stage within it) is may not as yet be fully worked out. I have independent grounds for thinking that if some conclusion is true, there can be a best way to show that. But I do not believe that everyone is responsible to know what that is.

Another issue concerning purism is that those who object to it most have a logical problem right off. As not-so-purists (which means: not committed to the position with which I associated myself above), these individuals believe that many (even any or no) avenues of argumentation can give equally good support for some conclusion. Still they object to the purists! But if an indeterminable variety of avenues can support the conclusion, the purist's idea that only one can do so best may be among those many. So there can be room for offense taken at, but not for a clear case against, the purist from the not-so-purist's viewpoint.

All this is meant to lead me to a beef I have against some people who are not-so-purists. Recently a lot of people have been climbing on to the libertarian platform. There are hedonist/subjectivists who don't accept natural law, objective morality, natural rights—only some "opposite force" that may be as good or as bad as "we" are. There are positivists who think that we have only preference, not sound moral and political judgment, on "our" side when we stand for human liberty. There are reductionists who claim

that free will does not exist and society will just automatically evolve toward human freedom. Still others have begun to link libertarianism to scientology, arguing that the human spirit is separate from the human body; autonomous and thus "completely free" (even of the laws of nature). Some think that accepting homosexuality as just one of *many* valid forms of sexuality is intrinsically tied to libertarianism. Then of course there are anarchists who claim that libertarianism *entails* the rejection of any kind of government, even law. The pacifists, who think protecting your own property (except when it is in your direct physical possession) involves moral evil of some sort, are yet another "authentic" libertarian group. And I haven't even come to the libertarian socialists, communists, and other "ists."

Granted, all these groups may find the political conclusion of libertarianism—that the free society is best for human beings—compatible with defending and pursuing their special values, ideas, ideals, projects, etc. That is, after all, one of the values of such a society—beyond a commitment to human liberty its laws do not demand anything of its members. But to *establish* that society, even to maintain it, more than that limited (political) commitment is required. The opposition's arguments must be met. Especially when one isn't starting with those who are politically *tabula rasa*. Their arguments can only be met with the best that defenders of human liberty can offer. Weaknesses in the case for liberty will allow the opposition's case to come off better, even if freedom *could* be given the best of all defenses.

So I have no personal beef with the not-so-purists and hangers on. In fact it is gratifying to know that libertarianism can accommodate many adherents of viewpoints different from what is the best in its behalf, just as predicted within libertarian political theory. No one need fear those who insist on finding the best case for human liberty, so long as he does respect its tenets and implications—on whatever grounds. I do want to make the appeal that some people join the effort to develop the best case. Without that we simply won't have libertarianism (or liberty) to hang on to much longer, even in the meager measure we can now encounter it.

A final note. I am interested in discussing the issue of purism versus not-so-purism,



but not in pseudo-psychological terms. Those who want to brand purists like me psychologically "hung up" will do well to consider that a person who does have psychological hang-ups really doesn't like to be told about them in the course of an argument in which (he believes, rightly or wrongly) some substantive topic is being investigated. So there simply is no value in such "information" for purposes of resolving the issue I have been discussing. It is so tiresome to hear about your motivation when the merits of your suggestions and support for them are what is at issue. I say this from experience involving many others interested in resolving problems but meeting with amateur psychologists instead of *bona fide* interlocutors. ■

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TRANSIT INNOVATIONS

Many of the nation's largest cities are undergoing severe fiscal crises while simultaneously planning or implementing multi-billion dollar fixed-rail mass transit systems. Yet the massive new systems, despite their cost and sophistication, can meet only a fraction of the total urban traffic demand. Harvard economist John Kain notes that the annual interest costs alone for Atlanta's new rail system could cover the cost of expanding that city's bus service by 50 percent—and offering it free to riders. Fortunately, there is a considerable revival of interest in low-cost, flexible, largely-private modes of transit—a category becoming known as *paratransit*, which includes taxis, jitneys, car pools, subscription buses, and car rental services.

Beating the academic drum for paratransit is a major study by the Urban Institute (*Paratransit: Neglected Option for Urban Mobility*, 1974). The report's five authors find substantial promise in these unglamorous modes of transit, and find (not surprisingly) that the principal reason they are not more widely utilized is government regulation. In reviewing the subject of taxi regulations, the authors strongly endorse free entry, in contrast to the existing system of monopoly franchises. And they find that city regulations prohibiting cabs from adopting ride-sharing and flexible pricing "are the most serious obstacles to near-term implementation of more effective taxi, dial-a-ride, and jitney services." Further, they stress that "there is probably no other single or simpler palliative for some of our urban transportation problems which could have such a large impact as the relaxation of present day entry controls for both taxis and jitneys."

The Urban Institute's conclusions are not especially new. Previous studies by General Research Corp. (1971) and the Institute for Defense Analysis (1973) led to essentially the same conclusions, as did research by economists Ross Eckert and George Hilton. What is new, and significant, is the increasing publicity being given to such views. Consumers Union has recently endorsed the whole paratransit concept, attacking taxi regulations and urging a return of the jitney. CU approvingly cites the illegal jitney operation in Pittsburgh as a good example of "the free enterprise system in action," filling a demand (jitneys outnumber the city's 225

legal cabs) and providing needed employment.

Unfortunately, city officials are slow to get the message. Still strongly in league with existing monopoly transit operators, they continue their attempts to stamp out paratransit. In Orange County, California, a woman who operated a 10-passenger van as a car pool service was put out of business by the state Public Utilities Commission, after protests from a local bus service. The City of Los Angeles, estimating that 400 to 500 illegal cabs are defying its franchise ordinance, has set up a joint task force of police and public utility inspectors to crack down on them; two police officers are being assigned to each of five public utilities inspectors to issue citations and make arrests. Further, the Federal transit aid program of the Urban Mass Transit Administration encourages cities to stay away from paratransit, by providing funds *only* for forms of transit that will not reduce employment in existing transit services. Thus, although the climate for innovative, free-market transit is improving, real change may be a long time in coming.

SOURCES:

- "The Potential of Paratransit," *Search*, The Urban Institute, Sept.-Dec. 1974, p. 6.
- "Paratransit," *Consumer Reports*, Apr. 1975, p. 261.
- "The Jitneys," Ross D. Eckert and George W. Hilton, *Journal of Law and Economics*, Oct. 1972, p. 293.
- "Car Pool Ruled Illegal Bus Line," *Los Angeles Times*, Apr. 16, 1975.
- "Pact Reached for Crackdown on 'Pirate Cabs'," *Ibid.*, Apr. 29, 1975.

ADVERTISING AND PROFESSIONALS

The spurious claim that the services of "professionals" are somehow not part of ordinary commerce, which is used to justify laws prohibiting advertisement of such services, received two more body blows in June. Hard on the heels of a California Supreme Court ruling striking down the state's ban on prescription drug advertising (see "Trends," August 1975), the Federal Trade Commission has proposed new regulations to wipe out similar laws in the 33 states where they remain in effect. Citing a 1970 study by University of Arizona professor John Cady, the FTC study estimated that price advertising could save consumers at least 4.3 percent of the \$6.7 billion they spend annually on prescriptions—a saving of \$288 million. FTC Chairman Lewis Engman attacked the underlying premise that such advertising is unethical: "It is a curious set of values which says that the consumer may be given full information about discretionary purchases such as deodorant and mouthwash but cannot be given information that will help him save money on nondiscretionary purchases such as drugs which a doctor has prescribed as essential to his good health." He noted that the proposed FTC rules would not compel

anyone to advertise; they would merely remove the present legal barriers against such advertising—a fully libertarian approach. Public hearings will be held on the rules next fall, after which the five FTC commissioners will vote on whether to enact them.

The second development concerns the legal profession. As anticipated in this column (see "Trends," July 1975), the U.S. Supreme Court ruled unanimously that a county bar association's state-enforced minimum fee schedules are a "classic illustration of price-fixing" that violates the antitrust laws. The ruling gave increased support to the efforts of the Justice Department and others to strike down the legal profession's bans on advertising about fees and services. The Court ruled that the service in question, a title search, is in fact a service rendered in exchange for money, and is therefore "commerce." It did not declare that *all* services offered by professionals (engineers, doctors, architects) are commerce, but left the door open for future litigation on these issues.

SOURCES:

- "FTC Acts to Halt Ban on Drug Price Ads," *Los Angeles Times*, Jun. 3, 1975.
- "Antitrust Laws Apply to Bar's Fees, Court Rules," *Ibid.*, Jun. 17, 1975.
- "'Price Fixing' Banned," *U.S. News and World Report*, Jun. 30, 1975.

FREEDOM TO SMOKE

The number of persons arrested for the victimless crime of puffing marijuana has increased from 18,815 in 1965 to 420,700 in 1973. Increasingly, important public officials are questioning the value system which devotes such substantial resources to saving people from themselves, while real crimes continue to soar (see "Trends," April 1975). These concerns are now beginning to result in specific legislative proposals. The Drug Enforcement Administration (DEA) is studying ways of substituting civil fines for criminal penalties in cases of marijuana possession and use. The DEA's approach is modeled after Oregon's 1973 law, which changed minor marijuana possession to a "civil violation," whose maximum penalty is a \$100 ticket. The independent Drug Abuse Council has found that a majority of Oregonians approve of the law; their survey further showed that there was no significant increase in marijuana use after the decriminalization—in fact, 40 percent of the users reported decreased usage. Lane County district attorney Pat Horton notes with approval that "decriminalization has, in fact, prioritized police work into areas of violent crime and crime against property." In addition, it has "removed approximately one-third of the total number of cases awaiting trial from the docket, thus freeing valuable space in our courtrooms."

The proposed new Federal criminal code